Costs

Ireland

Information about judicial costs in Ireland is available on this page.

Regulative framework governing fees of legal professions

Solicitors

The basis on which fees are payable to solicitors may be categorised in terms of contentious business (i.e. advice and representation in respect of litigation before a court, tribunal or arbitrator) and non-contentious business. Insofar as contentious business is concerned, costs may be further categorised as solicitor and client costs (i.e. costs payable by the party to his or her solicitor) and party and party costs (i.e. costs which are awarded to one party to proceedings against another party to those proceedings).

Contentious business

Principal primary legislation*

Attorneys' and Solicitors' Act 1849;
Attorneys' and Solicitors' Act 1870;
Section 68, Solicitors' (Amendment) Act 1994;
Section 94, Courts of Justice Act 1924;
Section 78, Courts of Justice Act 1936;
Par. 8, Eighth Schedule, Courts (Supplemental Provisions) Act 1961;
Section 17, Courts Act 1981;
Section 14, Courts Act 1991;
Section 68, the Solicitors' (Amendment) Act 1994;
Sections 27 and 46, Courts and Court Officers Act 1995.

Principal secondary legislation*

Order 22 rule 4, 6 and 14(3); Order 27 rule 1A, Order 99 and Appendix W, Rules of the Superior Courts;
Order 15, rules 14, 15 and 21 and Order 66, Circuit Court Rules;
Orders 51 and 52 and Schedule E, District Court Rules;

Case law

Decisions of the courts interpreting the legislation concerned

Non-contentious business

Principal primary legislation*

Solicitors' Remuneration Act 1881.

Principal secondary legislation*:

Solicitors' Remuneration General Order 1884;
Solicitors' Remuneration General Order 1960;
Solicitors' Remuneration General Order 1964;
Solicitors' Remuneration General Order 1970;
Solicitors' Remuneration General Order 1972;
Solicitors' Remuneration General Order 1978;
Solicitors' Remuneration General Order 1982;
Solicitors' Remuneration General Order 1984;
Solicitors' Remuneration General Order 1986;
Rules 210 and 239, Land Registration Rules, 1972.

Case law

Decisions of the courts interpreting the legislation concerned

* References to legislation are to the Act, Order or Rules concerned as amended. Post 1922 legislation may be viewed from the Irish Statute Book online and from the website of the Houses of the Oireachtas.

Lawyers

"Lawyers" describes collectively the two categories of lawyer within the Irish legal system, viz. solicitors and barristers.

Barristers

Barristers fees are treated as a disbursement by the solicitor to whom they are invoiced, and as such are regarded as a disbursement by the solicitor and are regulated by the legislation governing solicitors' fees and decisions of the courts concerning the allowance to be made for counsels' fees: see, in particular section 27, Courts and Court Officers Act 1995 and Kelly v. Breen [1978] I.L.R.M. 63; State (Gallagher Shatter & Co.) v. de Valera [1991] 2 I.R. 198; in Superquinn v. Bray U.D.C. (No. 2) [2001] 1 I.R. 459

Bailiffs

The fees of the sheriff, court messenger and bailiffs for execution of execution orders of the court are regulated by the Sheriff's Fees and Expenses Order, 2005 and include provision for fees chargeable on lodgement of the execution order and poundage, expenses of travelling, removal and storage /safekeeping of goods or livestock seized.

Advocates

There is no separate category of lawyer known as "advocate" in the Irish legal system.

Fixed costs

Fixed costs in civil proceedings

Fixed costs for litigants in civil proceedings

With the exception of the items set out in Order 27 rule 1A(3) and rule 9 (costs payable by a party lodging a pleading after other party has brought application for judgment in default of lodgement of that pleading) and Appendix W, Rules of the Superior Courts and Schedule E, District Court Rules, costs items are generally discretionary.

Costs payable also include disbursements such as court fees, which are fixed by the Fees orders of the Supreme and High Court, Circuit Court and District Court, respectively.

Please find further information on court fee rates.

Stage of the civil proceeding where fixed costs must be paid

In the cases of Order 27 rule 1A(3) and rule 9 (costs payable by a party lodging a pleading after other party has brought application for judgment in default of lodgement of that pleading) , the costs are payable on striking out of the application for judgment in default of the pleading concerned.

The costs items set out in Appendix W, Rules of the Superior Courts, are recoverable:

by the solicitor from the client on receipt of the bill of costs one month after receipt of the bill if the client has not within that time sought taxation (assessment) of the bill (section 2, Attorneys' and Solicitors' Act 1849). However, the client has in any event a period of twelve months from receipt of the bill within which to demand and obtain taxation. After the expiry of twelve months or after payment of the amount of the bill, the Court may, if the special circumstances of the case appear to require it, refer the bill to taxation, provided the application to Court is made within twelve calendar months after payment;

where one party is awarded costs against another party, on the issue of a certificate of taxation of the costs or in accordance with any agreement reached between the parties for payment.

The costs items set out in Schedule E, District Court Rules, are payable:

where judgment in default of defence is given, by the party in default on the issue of the judgment in default

in the case of other costs, by the party against whom the court has awarded costs , on the issuing by the court of the decree for such costs.

Fixed costs in criminal proceedings

Fixed costs for litigants in criminal proceedings

There are no fixed costs in criminal proceedings. No court fees are charged in criminal proceedings.

(The District Court, in summary criminal proceedings, may make an order for costs against a party except the Director of Public Prosecutions or a prosecuting police officer. The Circuit Court and Central Criminal Court (the courts having jurisdiction to try on indictment) have a discretion to award costs:

in the case of an acquittal (which award is appealable to the Court of criminal Appeal);

where an indictment contains unnecessary matter, or is unnecessarily lengthy, or materially defective,

where a trial is postponed due to amendment of an indictment; or

where a separate trial on a count in an indictment is directed).

Fixed costs in constitutional proceedings

Fixed costs for litigants in constitutional proceedings

Jurisdiction in constitutional proceedings is confined to the High Court and Supreme Court. No special costs or fees regime applies to such proceedings. The fixed costs allowable in such proceedings are those provided for in Appendix W, Rules of the Superior Courts. Court fees payable are those fixed by the Supreme and High Court (Fees) Order.

Please find further information on court fee rates.

Stage of the constitutional proceeding where fixed costs must be paid

Court fees are generally payable on lodgement of the document concerned.

Prior information to be provided by legal representatives

Rights and obligations of the parties

Section 68, Solicitors' (Amendment) Act 1994 provides:

"68.—(1) On the taking of instructions to provide legal services to a client, or as soon as is practicable thereafter, a solicitor shall provide the client with particulars in writing of:

the actual charges, or

where the provision of particulars of the actual charges is not in the circumstances possible or practicable, an estimate (as near as may be) of the charges, or where the provision of particulars of the actual charges or an estimate of such charges is not in the circumstances possible or practicable, the basis on which the charges are to be made, by that solicitor or his firm for the provision of such legal services and, where those legal services involve contentious business, with particulars in writing of the circumstances in which the client may be required to pay costs to any other party or parties and the circumstances, if any, in which the client's liability to meet the charges which will be made by the solicitor of that client for those services will not be fully discharged by the amount, if any, of the costs recovered in the contentious business from any other party or parties (or any insurers of such party or parties).

A solicitor shall not act for a client in connection with any contentious business (not being in connection with proceedings seeking only to recover a debt or liquidated demand) on the basis that all or any part of the charges to the client are to be calculated as a specified percentage or proportion of any damages or other moneys that may be or may become payable to the client, and any charges made in contravention of this subsection shall be unenforceable in any action taken against that client to recover such charges.

A solicitor shall not deduct or appropriate any amount in respect of all or any part of his charges from the amount of any damages or other moneys that become payable to a client of that solicitor arising out of any contentious business carried out on behalf of that client by that solicitor.

Subsection (3) of this section shall not operate to prevent a solicitor from agreeing with a client at any time that an amount on account of charges shall be paid to him out of any damages or other moneys that may be or may become payable to that client arising out of any contentious business carried out on behalf of that client by that solicitor or his firm.

Any agreement under subsection (4) of this section shall not be enforceable against a client of a solicitor unless such agreement is in writing and includes an estimate (as near as may be) of what the solicitor reasonably believes might be recoverable from any other party or parties (or any insurers of such party or parties) in respect of that solicitor's charges in the event of that client recovering any damages or other moneys arising out of such contentious business.

Notwithstanding any other legal provision to that effect a solicitor shall show on a bill of costs to be furnished to the client, as soon as practicable after the conclusion of any contentious business carried out by him on behalf of that client—

a summary of the legal services provided to the client in connection with such contentious business,

the total amount of damages or other moneys recovered by the client arising out of such contentious business, and

details of all or any part of the charges which have been recovered by that solicitor on behalf of that client from any other party or parties (or any insurers of such party or parties),

and that bill of costs shall show separately the amounts in respect of fees, outlays, disbursements and expenses incurred or arising in connection with the provision of such legal services
Nothing in this section shall prevent any person from exercising any existing right in law to require a solicitor to submit a bill of costs for taxation, whether on a party and party basis or on a solicitor and own client basis, or shall limit the rights of any person or the Society under section 9 of this Act.
Where a solicitor has issued a bill of costs to a client in respect of the provision of legal services and the client disputes the amount (or any part thereof) of that bill of costs, the solicitor shall—
take all appropriate steps to resolve the matter by agreement with the client, and
inform the client in writing of -
i) the client's right to require the solicitor to submit the bill of costs or any part thereof to a Taxing Master of the High Court for taxation on a solicitor and own client basis, and
ii) the client's right to make a complaint to the Society under section 9 of this Act that he has been issued with a bill of costs that he claims to be excessive.
In this section "charges" includes fees, outlays, disbursements and expenses.
The provisions of this section shall apply notwithstanding the provisions of the Attorneys and Solicitors (Ireland) Act, 1849 and the Attorneys and Solicitors Act, 1870."
Par. 12.6 of the Code of Conduct of the General Council of the Bar of Ireland provides:
"12.6 On the taking of instructions to provide legal services, or as soon as practicable thereafter, a barrister shall on request, provide to an instructing solicitor, or the client in the case of access under the Direct Professional Access Scheme, with particulars in writing confirming:
the actual charges, or
where the provision of particulars of the actual charges is not in the circumstances possible or practicable, an estimate (as near as may be) of the charges, or where the provision of particulars of the actual charges or an estimate of such charges is not in the circumstances possible or practicable, the basis on which the charges are to be made,
The format of any such particulars shall be at the discretion of each barrister."

Costs sources

Where can I find information on cost sources in Ireland?

Please find the information on the website of the Taxing Master's Office together with downloadable literature.

In what languages can I obtain information on cost sources in Ireland?

Information on cost sources in Ireland is available in English.

Where can I find information on mediation?

Section 7(1) of the Judicial Separation and Family Law Reform Act, 1989 provides that, where an application is made to the court for a decree of judicial separation, the court shall give consideration to the possibility of a reconciliation between the spouses concerned, and, accordingly, may adjourn the proceedings at any time for the purpose of affording the spouses an opportunity, if they both so wish, to consider a reconciliation between themselves with or without the assistance of a third party.
Section 7(3) makes provision for the court to adjourn proceedings to afford the spouses an opportunity, if they both so wish, to establish agreement, with or without the assistance of a third party, on the terms, so far as possible, of the separation.
Subsections (1) and (3) of section 8 of the Family Law (Divorce) Act 1996 contain similar provisions in respect of divorce proceedings.
Sections 15 and 16, Civil Liability and Courts Act 2004, provide for a mediation procedure in respect of personal injuries litigation.
Order 63A rule 6(1)(xiii) and Order 63B rule 6(1)(xiii) enable a judge of the Commercial List and a judge in competition proceedings in the High Court, respectively, on the application of any of the parties or of his/her own motion, that the proceedings or any issue therein be adjourned for such time, not exceeding twenty-eight days, as the judge considers appropriate to allow the parties time to consider whether such proceedings or issue ought to be referred to a process of mediation, conciliation or arbitration, and where the parties decide so to refer the proceedings or issue, to extend the time for compliance by any party with any provision of then rules of court or any order of the court.
For further information on mediation please consult the website of the Family Support Agency.

Where can I find information on the average length of time that different procedures take?

Please find further information in the Courts Service Annual Reports.

Value Added Tax

How is this information provided? What are the applicable rates?

Please refer to the website of the Irish Tax and Customs service.

Legal aid

Applicable income threshold in the area of civil justice

The disposable income threshold in civil cases is €18,000, after giving fixed allowances in respect of dependants, accommodation, tax and social insurance payments.
Please find further information on the website of the Department of Justice, Equality and Law Reform and the website of the Legal Aid Board.

Applicable income threshold in the area of criminal justice for defendants

The Criminal Legal Aid Scheme which is administered by the Department of Justice, Equality and Law Reform provides that free legal aid may be granted, in certain circumstances, for the defence of persons of insufficient means in criminal proceedings. There is no set income threshold. An accused person is entitled to be informed by the court in which he/she is appearing of his/her possible right to legal aid. The grant of legal aid entitles the applicant to the services of a solicitor and, in certain circumstances, up to two counsel, in the preparation and conduct of his/her defence or appeal. The courts, through the judiciary, are responsible for the granting of legal aid. An application for legal aid may be made to the court either
in person or
by the applicant's legal representative or
by letter to the Court Registrar.
An applicant for legal aid must establish to the satisfaction of the court that his/her means are insufficient to enable him/her to pay for legal aid him/herself. This is purely a discretionary matter for each court and is not governed by any financial eligibility guidelines. The court must also be satisfied that by reason of the 'gravity of the charge' or 'exceptional circumstances' it is essential in the interests of justice that the applicant should have legal aid. However, where the charge is one of murder or where an appeal is one from the Court of Criminal Appeal to the Supreme Court, free legal aid is granted merely on the grounds of insufficient means.
An applicant for free legal aid may be required by the court to complete a statement of means. It is an offence for an applicant to knowingly make a false statement or conceal a material fact for the purpose of obtaining legal aid. Such an offence carries a penalty of a fine or imprisonment or both.

Applicable income threshold in the area of criminal justice for victims

There is no disposable income threshold in relation to complainants in certain sexual violence cases who apply for legal aid from the Legal Aid Board in criminal cases where the prior sexual history of the complainant is to be raised in court by the defence.

Other conditions attached to the granting of legal aid for victims

Legal aid is automatically granted in respect of complainants in certain sexual violence cases. Any other victim must meet the same criteria as the general population.

Other conditions attached to the granting of legal aid for defendants

There are no other conditions and no specific arrangements for minors.

Cost-free court proceedings

There are exemptions to the payment of court fees in some circumstances including family law proceedings and certain cases relating to minors. For full details of the circumstances where court fees are not payable see fees orders and exemptions on the Courts Service website.

When does the losing party have to pay the winning party's costs?

The award of costs is at the discretion of the courts. The exercise of that discretion has to be carried out in accordance with certain well established rules and principles derived from case law of the courts. For example, the primary rule is that costs follow the event, i.e., the losing party pays the winning party's costs. This is however subject to exceptions which will depend upon the circumstances of the case. For example the winning party may not get all of his costs if he has been considered by the court to have delayed or unnecessarily prolonged the proceedings or while winning the case may have lost on certain discrete issues within the case. In certain cases such as cases involving constitutional issues and raising matters in the public interest the losing party may obtain some or all of his costs.

Expert's fees

In the case of civil legal aid, the Board establishes a scale of fees that it uses for various categories of experts. In addition, the Board retains discretion to use a special fee where the particular requirements of a case necessitate a particular or specialised expert to be engaged. In such cases, the fee is negotiated individually with the expert having regard to the work involved, the level of expertise required and the value of the case to the legally aided person.

In criminal cases where a legal aid certificate has been granted the Criminal Legal Aid Scheme extends to appropriate and reasonable expenses incurred by the defence solicitor including fees for expert witnesses.

Translators' and interpreters' fees

In civil litigation generally, the fees of translators or interpreters are a matter to be fixed in the first instance between the translators/interpreters and the party to the litigation concerned. However, where that parties costs fall to be paid by another party by a decision of the court the fees paid to a translator/interpreter are subject to taxation (assessment) by the taxing master (i.e. legal costs assessor).

In any case involving civil legal aid, the Board undertakes a tender competition and selects from among the organisations that tender.

In criminal cases where a legal aid certificate has been granted the Criminal Legal Aid Scheme extends to appropriate and reasonable expenses incurred by the defence solicitor including fees for translation or interpretation.

Related Attachments

Ireland's report of the Study on Transparency of costs PDF (400 Kb) en

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